

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

RAJENDRA MAHARAJ,

Plaintiff,

v.

RED SHIRT ENTERTAINMENT,
LLC, CONVERSATION, LLC and
FRANK O'BRIEN,

Defendants.

INDEX NO.: 1:14-CV-03486-ALC

Civil Action

**CERTIFICATION IN
OPPOSITION TO MICHAEL K.
CHONG'S MOTION TO
WITHDRAW AS COUNSEL**

I, **MICHAEL R. FUTTERMAN**, of full age, hereby certifies as follows:

1. I am an attorney at law in the State of New York and a partner with the law firm of McCusker, Anselmi, Rosen & Carvelli, P.C., attorneys for plaintiff Rajendra Maharaj ("Plaintiff") in the above-captioned matter.

2. I make this Certification in opposition to Michael K. Chong's motion to withdraw as counsel for Defendants Red Shirt Entertainment, LLC, Conversation LLC, and Frank O'Brien ("Defendants").

3. While I understand and respect a fellow member of the bar's need to sever ties with his client, this is likely a tactical choice devised by Frank O'Brien in order to delay and prolong these proceedings. To be clear, I do not attribute these dilatory tactics to Mr. Chong, but instead attribute them solely to Defendants. Indeed, this request came a mere one day after this office wrote, for the fourth time, to the Court about Defendants' latest refusal to produce relevant documents.

4. From the very beginning, Defendants have failed to take Plaintiff's claims seriously. Defendants' responses have been intentionally evasive and have been aimed at delaying this matter until Plaintiff dismisses it on his own accord. To this, Defendants have repeatedly claimed that documents do not exist when they certainly do; claimed others are irrelevant despite being indisputably connected to the legal claims and defenses and issue; and all together have ignored their discovery obligations under the Federal Rules of Civil Procedure.

5. Recognizing this, Mr. Chong twice agreed – at the direction of this Court – to produce relevant documents. Unfortunately, Mr. Chong's efforts to comply with this Court's orders were thwarted by Defendants' utter refusal to provide these relevant documents, despite repeated requests from Mr. Chong to do so. Tellingly, this is a fact that Mr. Chong admits in his affidavit submitted in conjunction with this motion. *See* Affidavit of Michael K. Chong at ¶¶ 3, 4, and 6.

6. Given the above facts, it is clear that Defendants have strategically decided to switch counsel at the moment they were required to produce documents. As such, Plaintiff respectfully requests that this Court deny Mr. Chong's motion or, at the very least, require Defendants to retain new counsel within 7 days of the Court's decision on this motion or have their pleadings stricken.

7. I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

By: /s/Michael R. Futterman

Michael R. Futterman, Esq.

Dated: July 15, 2015